MOTION FILED OCT 9 1957

IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1957.

No. 93.

HENRY T. McKINNEY,
Petitioner,

v.

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY et al.,
Respondent.

MOTION

To Remove the Above Entitled Cause from the Summary Calendar.

DAN M. WELCH,
Attorney, Missouri-Kansas-Texas Railroad Company, Denison, Texas.

CARROLL J. DONOHUE,
SAM ELSON,
HUSCH, EPPENBERGER, DONOHUE, ELSON & JONES,
506 Olive Street,
St. Louis 1, Missouri,
CEntral 1-6101,
Attorneys for Respondent, Brotherhood of Railway Clerks, etc.

IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1957.

No. 93.

HENRY T. McKINNEY,
Petitioner,

v.

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY et al.,
Respondent.

MOTION

To Remove the Above Entitled Cause from the Summary Calendar.

Comes now the Respondent herein, the Missouri-Kansas-Texas Railroad Company and further comes the Respondent, the Brotherhood of Railway Clerks, etc., and do hereby move the Court to remove the above-captioned cause from the summary calendar and to place same on the Court's calendar for hearing and that oral argument of one hour

on each side under Ru 44 (4) be permitted for the following reasons:

1. Your movants submit that this case, if heard by the Supreme Court, justifies extended argument at least to some extent as is accorded cases not on the summary docket.

2. The Respondent, Missouri-Kansas-Texas Railroad Company, and the Respondent, Brotherhood of Railway Clerks, etc., are on the same side and urge that the result reached below is correct, but said Respondents respectively have differing interests herein which require that counsel for each movant herein be duly accorded an opportunity to be heard on oral argument.

3. The cause presently before the Supreme Court of the United States requires consideration of several issues, each of some complexity, touching upon the jurisdiction of the District Court below and the failure of the complaint filed in the District Court, and the subject matter of this proceeding, to state a claim upon which relief can be granted. These can not be satisfactorily presented in an oral argument in a period of thirty minutes. Furthermore, the Respondent-Carrier seeks that its counsel emphasize to the Court certain of said issues and phases thereof which are peculiarly significant to it in its capacity as employer. Similarly, the Respondent-Railroad Brotherhood seeks that its counsel emphasize to the Court other issues and phases thereof which are peculiarly significant to it in its capacity as a labor union. An opportunity should be accorded both respondents to be heard on oral argument and that reasonably ample time should be accorded to each respondent.

Wherefore, the premises considered, respondents pray that this cause be removed from the summary calendar and placed upon the court's calendar for hearing and con-

sideration and that oral argument of one hour on each side be permitted under Rule 44 (4) of this Court.

Dated October 7, 1957.

.....

DAN M. WELCH,
Attorney, Missouri-Kansas-Texas Railroad Company, Denison, Texas.

.....

CARROLL J. DONOHUE,

.....

SAM ELSON,

.....

HUSCH, EPPENBERGER, DONOHUE, ELSON & JONES,
506 Olive Street,
St. Louis 1, Missouri,
CEntral 1-6101,
Attorneys for Respondent Brotherhood of Railway Clerks, Etc.

I certify that I served three copies of the foregoing on J. Lee Rankin, Esq., Solicitor General, George Cochran Doub, Esq., Asst. Attorney General, Samuel D. Slade, Esq., and John G. Langblin, Jr., Esq., Attorneys, Department of Justice, Washington 25 D. C., by depositing same, postage prepaid, in the United States Mail this 7th day of October, 1957, certified mail, return receipt requested.

.....

Carroll J. Donohue.

TURN TO NEXT CARD